



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

TRACY NUNNALLY¹,
Petitioner,

v.

SOUTH JERSEY GAS COMPANY,
Respondent.

ORDER ADOPTING
INITIAL DECISION

BPU DOCKET NO. GC08070533U
OAL DOCKET NO. PUC 2035-09

By petition filed with the New Jersey Board of Public Utilities (Board) on July 30, 2008, Tracy Nunnally (Petitioner) alleged that South Jersey Gas Company (Respondent) had improperly billed Petitioner in the amount of \$2,595.50². After receipt of Respondent's answer, wherein Respondent asserted that Petitioner owed \$2,595.50 for past services, this matter was transmitted to the Office of Administrative Law for hearing as a contested matter on January 12, 2009.

On May 13, 2009, Administrative Law Judge (ALJ) W. Todd Miller submitted his Initial Decision in this matter to the Board. A copy of the Initial Decision is attached and made a part of this Order. ALJ Miller's Initial Decision noted that Petitioner converted her heating service from oil to natural gas but that, for the first twenty-one months after the conversion, Respondent was unaware of the conversion and was billed on estimated readings because of the inability to access the meter. Therefore, ALJ Miller concluded that Petitioner owed Respondent \$2,595.50 as an upward adjustment for past services. However, due to Petitioner's financial condition and miscommunications between Petitioner and Respondent during the twenty-one months of estimated meter readings, ALJ Miller directed that such amount be reduced to \$50.00 per month for a period of twenty-one months in satisfaction of the past due amount.

Subsequently, Petitioner filed exceptions on May 14, 2009, which the Board received on May 27, 2009, where she indicated that Respondent failed to apply certain energy assistance credits

¹ Petitioner's name is corrected in the above caption to reflect accurate spelling.

² The actual amount due at the time of the hearing was significantly less due to payments made on account from an energy assistance program and other credits.

from the Home Energy Assistance Program (HEAP). Respondent filed a reply to those exceptions on May 27, 2009, asserting that such credits had already been applied.

At its June 8, 2009 agenda meeting, the Board requested, and was subsequently granted, a forty-five day extension of time in which to render a final decision.

Respondent's reply exceptions contained Petitioner's account statements reflecting that the payments were previously applied to her account. Furthermore, ALJ Miller considered Petitioner's HEAP energy assistance credits in his Initial Decision. Therefore, the Board HEREBY FINDS that Petitioner's exceptions are without merit.

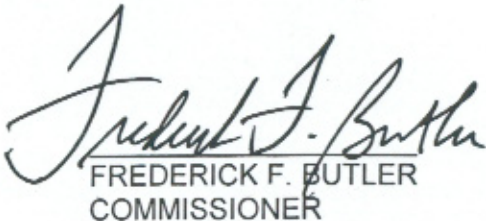
After review and consideration of the record, including Petitioner's exceptions and Respondent's reply, the Board HEREBY FINDS the findings and conclusions of the ALJ to be reasonable and, accordingly, HEREBY ACCEPTS them.

Therefore, the Board HEREBY ADOPTS the Initial Decision in its entirety and ORDERS that the Petitioner make payments of \$50.00 a month for twenty-one months in full satisfaction of arrearages and that Petitioner's petition be HEREBY DISMISSED.

DATED: 7/1/09

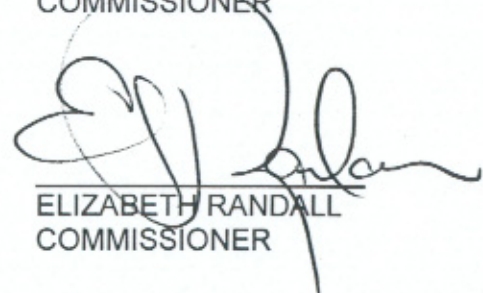
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

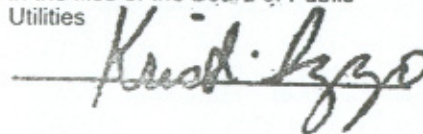

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



TRACY NUNNALLY

v.

SOUTH JERSEY GAS COMPANY

BPU DOCKET NO. GC08070533U

OAL DOCKET NO. PUC 2035-09

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CMS
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Ford, J.
Loque-Romaine
K. Kuchbauer
RPA



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

FILED
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2009 MAY 13 PM 12:14
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INITIAL DECISION

OAL DKT. NO. PUC 2035-09

AGENCY REF. NO. GC08070533U

TRACEY NUNNALLY,

Petitioner,

v.

SOUTH JERSEY GAS COMPANY,

Respondent.

Tracey Nunnally, petitioner, pro se

Steven R. Cocchi, Esq., for respondent

Record Closed: May 11, 2009

Decided: May 13, 2009

BEFORE W. TODD MILLER, ALJ:

STATEMENT OF THE CASE

Petitioner disputes respondent's billing in the amount of \$2,595.50¹ for gas service provided to [xxx] Avenue, Pleasantville, New Jersey. The billed amount represents the difference between the amounts billed for estimated usage and the actual cost of gas usage during the period of September 15, 2005, through July 24, 2007. The property was not accessible for meter readings during this period. Once an actual meter reading was obtained, it was determined that petitioner owed \$2,595.50

¹ The actual amount due at the time of the hearing was significantly less due to payments made on account from an energy assistance program and other credits.

for actual usage. For the reasons discussed below, the disputed amount of \$2,595.50 is **AFFIRMED** as the amount due, which shall be repaid in monthly installments of \$50.

PROCEDURAL HISTORY

The petitioner requested a fair hearing and the matter was transmitted to the OAL on January 12, 2009, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on May 11, 2009. The hearing proceeded on that date and the record closed.

CONSIDERATION OF FACTS AND TESTIMONY

After hearing the testimony and assessing the credibility of same and further considering the submissions and arguments of the parties, I make the following **FINDINGS OF FACTS:**

On or before September 14, 2005, petitioner converted her heating service from oil to natural gas. South Jersey Gas Company became the natural gas supplier. Petitioner had non-heat natural gas service prior to this date. Consequently, her gas bills were very low as her gas usage was limited to hot water and cooking.

The City of Pleasantville assisted petitioner in converting to gas. McAllister Fuels was the contractor. Petitioner contends that South Jersey Gas was notified of the conversion. Representatives from South Jersey Gas contend that, after exhaustive review of their files, there was no notice regarding the conversion on or before 2005.

Subsequent to September 14, 2005, South Jersey Gas was not able to gain access to the meter in petitioner's basement. Thus the gas company continued to bill petitioner based on estimated charges. And the estimates were based upon non-heat service since the gas company was unaware of petitioner's conversion to natural gas for heating purposes. South Jersey Gas continued to rely upon estimated readings through July 24, 2007 (the disputed period).

South Jersey Gas utilizes an outside contractor to obtain gas meter readings. In this instance, the outside contractor was Millennium Account Services. (R-3). By letter dated June 29, 2007, Millennium advised petitioner that they had been unable to access her property for at least twenty-one months. (R-3). Around the same time the gas company learned of petitioner's conversion to natural gas.

The petitioner allowed access for an actual meter reading on or about July 24, 2007. The reading resulted in an adjustment or current gas bill of \$2,595.50.

South Jersey Gas's methodology for reaching the adjusted amount of \$2,595.50 is set forth in a spreadsheet. (R-1). The process involved taking the last actual verified meter reading dated 9/14/05 and analyzing the verified meter reading taken on July 24, 2007. The spreadsheet incorporates all credits all payments for gas usage against this calculation. The actual balance due as of 7/24/07 was \$2,238.43. This balance due was the result of the \$2,595.50 adjustment.

The testimony offered by South Jersey Gas was reliable, trustworthy and competent. The spreadsheet was accurate and incorporated all pertinent calculations. The meter reading as of July 24, 2007, was 7078 cubic feet (CCF). The verified reading on September 14, 2005, was 4994 CCF. Deducting 4994 from 7078 results in usage of 2084 CCF. The total of the CCF billed during the relevant period was 460 CCF. This results in an unbilled amount of CCF of 1624 CCF. This is the precise amount of unbilled CCF noted on the South Jersey Gas spreadsheet. (R-1).

When a customer complaint came in on July 24, 2007, the old meter was exchanged for a new meter. The meter was sent to MSI South Jersey Metershop. The meter was tested in accordance with the applicable regulations. The meter was found to be operating within the permitted 2% tolerance² (R-4).

Finally, petitioner's gas bills appear to be reasonable. An average gas bill is around \$150 per month for heat and hot water. Petitioner's bills averaged about \$120 per month after the conversion.

² See N.J.A.C. 14:3-4.6(a).

Petitioner testified. She stated it is unfair for her to receive a large billing adjustment after several years of access issues and gas conversion. She asserts that South Jersey Gas knew, or should have known, that her property was converted to natural gas heat service. Consequently, the company should have raised its estimated billings, even if it did not have access to her property, which she disputes. If the estimates were raised, she would have paid her bills on time and not be saddled with an enormous adjustment which is beyond her financial means.

Petitioner currently works part-time. She receives food stamps and heating assistance through the Heat Energy Assistance Program (HEAP). In fact, petitioner received a \$1000 payment, in part towards the disputed adjustment. (R-1). She is a single mother with a ten month old child. She did not dispute the actual amount of the bill, South Jersey Gas's calculation or testimony. Rather, she disputes the onerous nature of the adjustment and the fact that it was not resolved sooner by the gas company.

FINDINGS OF FACT AND CREDIBILITY

1. Petitioner converted her property from oil heat to gas heat prior to September 14, 2005.
2. The proofs offered by South Jersey gas were reliable, trustworthy and competent.
3. The petitioner was not billed for approximately 2084 CCFs between the period of September 14, 2005, through July 24, 2007.
4. South Jersey Gas only billed petitioner for estimated usage of 460 CCFs during the relevant period.
5. Petitioner owes South Jersey Gas for an additional amount of 1624 CCFs which were not billed during the relevant period.

6. The billing adjustment of \$2,595.50 on July 24, 2007, was accurate.
7. The billing adjustment created a financial hardship for petitioner.

CONCLUSIONS OF LAW

N.J.A.C.14:3-7.2 outlines the procedures for estimated bills. It states, in part:

(e) Rules concerning estimated bills for all customers are as follows:

1. Utility companies shall maintain a regular meter reading schedule and make a reasonable effort to read all meters;
2. Utility companies, upon request, shall make available to all customers a **postage paid business reply card** on which the customer may mark the meter reading as follows:
 - i. The business reply card shall have appropriate explanation. The utility shall permit the customer to telephone the meter reading to the utility. The customer reading is to be used in lieu of an estimated reading, provided the reading is received in time for billing;
3. When a utility estimates an account for **four consecutive billing periods** (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the **utility shall mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice shall explain the penalty for failure to complete an actual meter reading.** After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the utility may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment;

4. Utility companies shall submit to the Board of Public Utilities a statement detailing their estimating procedures;

5. If low estimates result in a customer receiving an actual bill that is at least 25 percent greater than the prior estimated bill, the utility shall allow the customer to amortize the excess amount. The amortization will be in equal installments over a period of time equal to the period when no actual reading was taken by the customer or the utility; and

[Emphasis added]

* * * *

South Jersey Gas Company's tariff, Section 8.1 provides that:

The quantity of gas measured by the Company's meter shall be final and conclusive for billing purposes, unless adjustment thereof is appropriate pursuant to these General Terms and Conditions.

In this instance, South Jersey Gas made an adjustment to petitioner's account. The adjustment accurately reflects the difference between the actual amount of gas used, taking into consideration prior estimates. The meter reading as of September 14, 2005, was 4994 CCFs and the verified meter reading on July 24, 2007, was 7078 CCFs. Petitioner was given credit for 460 CCFs billed as estimated usage during the same timeframe. Accordingly, petitioner owes South Jersey Gas for unbilled usage in the amount of 1624 CCFs. The calculation resulted in an additional billing of \$2,595.50.

It is not clear if the gas company exhausted all forms of notice to petitioner as set forth in the estimated bill regulation. No proof was offered whether petitioner was provided the business reply card option or weekends or nights as alternative reading times. Nevertheless, there is ample evidence that the billing adjustment is accurate.

I **CONCLUDE** that the calculations offered by South Jersey Gas are based upon reliable and competent information. I further **CONCLUDE** that petitioner owes South Jersey Gas for the upward adjustment of \$2,595.50, subject however to all credits and

payments received subsequent to that date. This includes the \$1000 payment from the HEAP.

Petitioner is directed to pay installments of \$50 per month towards the arrearages. Normally the period of estimation would be the divisor. See, N.J.A.C. 14:3-7.2(e)5. Here it would be twenty-one months. And $\$2,595 \div 21$ equals a payment of \$123 per month. If \$1,000 HEAP payment were deducted from the principle, it would result in a monthly payment of \$75 per month. I have reduced the payment to \$50 per month due to petitioner's financial condition and due to the lack of, delayed notice, or other meter reading options being offered during the twenty-one month period.

ORDER

For the foregoing reasons, the action filed by petitioner disputing South Jersey Gas's billing is **DISMISSED**, except for as otherwise indicated herein.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 13, 2009

DATE

Date Received at Agency:

5/13/09

Date Mailed to Parties:

W. J. Miller

W. TODD MILLER, ALJ

Floyd Miller

/sd

WITNESSES AND DOCUMENTS IN EVIDENCE

WITNESSES

For Petitioner:

Tracey Nunnally

For Respondent:

Stacy Oropallo, Quality Assurance Specialist

EXHIBITS

For Petitioner:

None

For Respondent:

- R-1 Statement of Customer's Account (Spreadsheet)
- R-2 Meter Reading History
- R-3 Letter, Millennium Account Services, June 29, 2007
- R-4 MSI/South Jersey Gas Metershop Analysis, April 29, 2008
- R-5 Partial Excerpt of South Jersey Gas Tariff
- R-6 Letter, James Price, BPU Division of Customer Assistance, April 29, 2008